



# UNITED STATES PATENT AND TRADEMARK OFFICE

88  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,248	02/13/2001	Peter Brittingham	246400.0164	2566
7590	01/10/2005			EXAMINER
John W. Ryan WILMER, CUTLER & PICKERING 2445 M. Street, N.W. Washington, DC 20037-1420			PHILLIPS, HASSAN A	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/781,248	BRITTINGHAM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hassan Phillips	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 August 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-10,12-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-10,12-19 and 21-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to amendments received on August 19, 2004.

### ***Specification***

1. After consideration of the amendments made to the abstract, the Examiner has withdrawn the objection to the abstract for undue length.
2. After consideration of the amendments made to the disclosure to correct minor informalities, the Examiner has withdrawn the objection to the disclosure.

### ***Claim Objections***

1. After consideration of the amendments to claims 8, 17, and 26, to correct minor informalities, the Examiner has withdrawn the objections to claims 8, 17, and 26.

### ***Claim Rejections - 35 USC § 112***

1. After consideration of the amendments made to claim 19 to correct the lack of antecedent basis, the Examiner has withdrawn the rejection, under 35 USC 112, of claim 19.

***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 3-10, 12-19, 21-27, have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-7, 10, 12-16, 19, 21-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracton et al. (hereinafter Tracton), U.S. patent 6,470,378 in view of Bradley et al. (hereinafter Bradley), U.S. patent 6,584,507 (referenced in previous office action and not relied upon).

3. In considering claims 1 and 10, Tracton discloses a method of querying a client computer by a server over a communication network to determine whether the client computer has sufficient performance capability in order to utilize an on-line service, comprising: allowing a query program to be downloaded to the client computer, the query program, upon execution, querying the client computer for at least one performance parameter, (col. 3, lines 55-58); transmitting at least one performance parameter to the server, (col. 3, lines 58-62); determining whether the client computer

has a sufficient performance capability to utilize the on-line service based on the at least one performance parameter, (col. 3, lines 62-65); storing a client identifier (or certification file) 80, in the client computer if the client computer has sufficient performance capability, the file being accessible by the server, (col. 3, lines 66-67, and col. 4, lines 1-13).

Although the disclosed method of Tracton shows substantial features of the claimed invention, it fails to expressly disclose: **only** storing the certification file if the client computer is determined to have sufficient performance capability.

Nevertheless, in a similar field of endeavor, Bradley discloses a method and apparatus for linking external information to a network management system comprising: storing a certification file 118 in a server computer 112, **only** if the certification file is determined to have sufficient performance capability, the certification file being accessible to a client, (col. 7, line 10 through col. 8, line 55).

Thus, given the teachings of Bradley, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Tracton to store the certification file in the client computer **only** if the client computer is determined to have sufficient performance capability. This would have provided an efficient means for verifying the client computer meets a minimum performance capability before proceeding to use the online service, Bradley col. 8, lines 56-65. This further would have made the method taught by Tracton more efficient since the server would no longer need to communicate with the client through a registry, or tailor data to meet the capabilities of the client, Tracton, col. 3, line 66 through col. 4, line 13.

Art Unit: 2151

4. In considering claims 3 and 12, the method of Tracton further provides a means for determining whether the client computer was previously certified, the client computer being previously certified if a certification file 80, is stored in the client computer. See col. 3, lines 55-67, and col. 4, lines 1-13.

5. In considering claims 4 and 13, the method of Tracton further discloses the query program being configured to issue one or more application program interface function calls to an operating system of the client computer, the operating system returning at least one performance parameter in response to the one or more application program interface function calls. See col. 5, lines 30-57.

6. In considering claims 5 and 14, it is implicit in the method taught by Tracton that certification criteria is contained in a storage of the server. See col. 3, lines 62-65.

7. In considering claims 6 and 15, it is also implicit in the method taught by Tracton that in the step of determining whether the client computer has sufficient performance capabilities, comparing at least one performance parameter to the certification criteria. See col. 3, lines 62-65.

8. In considering claims 7 and 16, the method of Tracton further discloses providing a remediation to a user of the client computer if it was determined that the client computer does not have sufficient performance capability. See col. 3, lines 62-65.

9. In considering claim 19, Tracton discloses a system for remotely querying a client computer by a server over a communication network, comprising: a communication network 104, (see Fig. 4); a server configured to allow a query program to be downloaded to the client computer, the query program, upon execution, querying the client computer for at least one performance parameter from the querying program, and determining whether the client computer has a sufficient performance capability to utilize an on-line service based on the at least one performance parameter, (col. 3, lines 55-65); storing a client identifier (or certification file) 80, in the client computer if the client computer has sufficient performance capability, the file being accessible by the server, (col. 3, lines 66-67, and col. 4, lines 1-13).

Although the disclosed method of Tracton shows substantial features of the claimed invention, if fails to expressly disclose: **only** storing the certification file if the client computer is determined to have sufficient performance capability.

Nevertheless, in a similar field of endeavor, Bradley discloses a method and apparatus for linking external information to a network management system comprising: storing a certification file 118 in a server computer 112, **only** if the certification file is determined to have sufficient performance capability, the certification file being accessible to a client, (col. 7, line 10 through col. 8, line 55).

Thus, given the teachings of Bradley, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Tracton to store the certification file in the client computer **only** if the client computer is determined to have sufficient performance capability. This would have provided an efficient means for verifying the client computer meets a minimum performance capability before proceeding to use the online service, Bradley col. 8, lines 56-65. This further would have made the method taught by Tracton more efficient since the server would no longer need to communicate with the client through a registry, or tailor data to meet the capabilities of the client, Tracton, col. 3, line 66 through col. 4, line 13.

10. In considering claim 21, the method of Tracton further provides a means for determining whether the client computer was previously certified, the client computer being previously certified if a certification file 80, is stored in the client computer. See col. 3, lines 55-67, and col. 4, lines 1-13.

11. In considering claim 22, the method of Tracton further discloses the query program being configured to issue one or more application program interface function calls to an operating system of the client computer, the operating system returning at least one performance parameter in response to the one or more application program interface function calls. See col. 5, lines 30-57.

12. In considering claim 23, it is implicit in the method taught by Tracton that certification criteria are contained in storage of the server. See col. 3, lines 62-65.

13. In considering claim 24, it is also implicit in the method taught by Tracton that in the step of determining whether the client computer has sufficient performance capabilities, comparing at least one performance parameter to the certification criteria. See col. 3, lines 62-65.

14. In considering claim 25, the method of Tracton further discloses providing a remediation to a user of the client computer if it was determined that the client computer does not have sufficient performance capability. See col. 3, lines 62-65.

15. Claims 8, 9, 17, 18, 26, 27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracton in view of Bradley, and further in view of Bland et al. (hereinafter Bland), U.S. patent 5,732,218.

16. In considering claims 8, 17, and 26, although the disclosed system of Tracton and Bradley shows substantial features of the claimed invention, it fails to expressly disclose: storing a client computer database in the storage of the server.

Nevertheless, storing a client computer database in the storage of a server was well known in the art at the time of the present invention. This is exemplified in a method, taught by Bland, that discloses a management data gathering system

Art Unit: 2151

comprising: storing a client computer database 123 in the storage of a server 103, (col. 5, lines 62-66).

Given the teachings of Bland, it would have been obvious to one of ordinary skill in the art, to modify the teachings of Tracton to have a client computer database reside within a server's storage. This would have provided a more efficient means for the server to access the pre-discovered performance parameters of the client computer, Bland, col. 2, lines 12-16.

17. In considering claims 9, 18, and 27, the method of Bland further teaches updating the client computer database, (col. 2, lines 25-26). The motivation for modifying the teachings of Tracton with the teachings of Bland would be the same as that indicated in the consideration of claims 8, 17, and 26.

### ***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Humbleman et al. U.S. Patent 6,466,971: discloses a method and system comprising: devices querying other devices for capability data.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ZARNI MAUNG  
PATENT EXAMINER